

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-46 are pending in the application, with claims 1, 21, 34, 35, 36, 45, and 46 being the independent claims. Claims 1, 21, 34, 35, 36, 45, and 46 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 101***

The Examiner has rejected claims 34 and 35 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

Although Applicants do not acquiesce to the propriety of the rejection, claims 34 and 35 have been amended to recite, *inter alia*, “[a] computer-readable storage *device*,” thereby accommodating the rejection. The claimed “storage device” is directed only to statutory subject matter, and any disclaimer of claim scope from this amendment should be understood as narrowly encompassing only the subject matter (e.g., signals) argued to be non-statutory by the Examiner.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 34 and 35 under 35 U.S.C. § 101.

***Rejections under 35 U.S.C. § 103***

**Claims 1-19, 21-32, and 34-46**

The Examiner has maintained the rejection of claims 1-19, 21-32 and 34-46 under 35 U.S.C. § 103(a) as allegedly being obvious over WIPO Publication No. WO 01/77783 A2 to Russell et al. ("Russell") in view of U.S. Patent No. 6,266,420 to Langford et al. ("Langford") and further in view of U.S. Patent Application Publication No. 2002/0016922 to Richards et al. ("Richards"). Applicants respectfully traverse this rejection.

Claim 1 recites, *inter alia*, "***the encrypted sub-header including access rules applicable to the user or to a group to which the user belongs*** for the secured item" and "***a group of individually encrypted sub-headers*** corresponding to other users or groups and ***comprising access rules applicable to the other users or groups.***"

In rejecting claim 1, the Examiner cites primarily to Richards as allegedly providing the necessary teaching or suggestion for the aforementioned features. In particular, in the "Response to Arguments" section of the Office Action, the Examiner argues:

Richards was used to disclose a system where a given requester is permitted to access a secure item based on access rules applicable to the user stored in an encrypted header of a secure item. Applicant should note Richards discloses access rules applicable to the user (Please note that the language "or to a group to which the user belong" is optional) and when the teaching of Richards are applied to the header of Langford, a person of ordinary art can readily modify the sub-headers corresponding to multiple groups in Langford to have access rules for each sub-header part because Langford discloses encrypted sub-header for different groups. Therefore, the combination of Russell, Langford and Richards discloses "the encrypted sub-header including access rules applicable to the user or to a group to which the user belongs for the secured item". (*Office Action, pp. 5-6*).

Applicants have clarified claim 1 such that the encrypted sub-headers (e.g., “the encrypted sub-header” and the “individually encrypted sub-headers”) recited in the claim comprise “access rules applicable to” the corresponding user or group. This claim language clarifies that access-rules are present at a per-sub-header level (see, e.g., Specification FIG. 2C.1, elements 240, 241, 242, and 243 (each comprising their own access rules)).

Although Applicants do not acquiesce, the Examiner relies on the “policy elements” (Richards, FIG. 4, element 114) of Richards as allegedly teaching the claimed “access rules.” (Office Action, p. 10 (citing Richards, FIG. 4 and para [0068])). However, assuming this analogy *arguendo*, Richards would only have a *single* access rule set for an entire header, and would not have individual access rules within “the encrypted sub-header” and the “individually encrypted sub-headers” as recited in claim 1, that would each be applicable to corresponding users or groups.

Acknowledging this deficiency of Richards, the Examiner notes in the above-excerpted portion of the Office Action that “a person of ordinary art can readily modify the sub-headers corresponding to multiple groups in Langford to have access rules for each sub-header part because Langford discloses encrypted sub-header for different groups.” (Office Action, p. 6). This is not the case.

For the Examiner to reach this conclusion requires impermissible hindsight bias. In particular, Langford does not teach or suggest storing *anything* in the header other than the wrapped session keys and key identifiers. Additionally, Richards does not teach or suggest having multiple access rules, let alone multiple access rules that would each be applicable to *corresponding* users or groups. While the Examiner argues that “one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references” (Office Action, p. 3), the issue here is that the combination of references have tremendous technical gaps that cannot be overcome without inserting the Examiner’s knowledge of the claimed invention.

In particular, *In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971) states that “[a]ny judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and *does not include knowledge gleaned only from applicant’s disclosure*, such a reconstruction is proper.” (M.P.E.P. § 2145(X)(A)). At a minimum, the idea of having multiple sets of access rules in a single header (each within a corresponding sub-header) is knowledge that the Examiner has gleaned *only* from Applicants’ disclosure. As a result, the rejection is based on impermissible hindsight bias.

For at least the aforementioned reasons, claim 1 is not rendered obvious by the combination of Russell, Langford, and Richards. Claims 21, 34, 35, 36, 45, and 46 recite analogous features to claim 1, using respective language, and are likewise not rendered obvious by the combination of Russell, Langford, and Richards for similar reasons to claim 1, and further in view of their own respective features. Claims 2-19, 22-32 and 37-44 each depend from one of claims 1, 21, and 36, and are likewise not rendered obvious by the combination of Russell, Langford, and Richards for at least the same reasons as claims 1, 21, and 36, and further in view of their own respective reasons.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 1-19, 21-32 and 34-46 under 35 U.S.C. § 103(a).

**Claims 20 and 33**

The Examiner has maintained the rejection of claims 20 and 33 under 35 U.S.C. § 103(a) as allegedly being obvious over Russell in view of Langford and Richards, further in view of U.S. Patent Application Publication No. 2003/0050919 to Brown et al. ("Brown"). Applicants respectfully traverse this rejection.

For the reasons presented above, claims 1 and 21 are not rendered obvious by the combination of Russell, Langford, and Richards. Brown does not supply the missing teaching or suggestion, nor does the Examiner rely on Brown to allegedly supply the missing teaching or suggestion. Accordingly, claims 1 and 21 are not rendered obvious by the combination of Russell, Langford, Richards, and Brown.

Claims 20 and 33 depend from claims 1 and 21, respectively, and are likewise not rendered obvious by the combination of Russell, Langford, Richards, and Brown for at least the same reasons as claims 1 and 21, and further in view of their own respective features.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 20 and 33 under 35 U.S.C. § 103(a).

***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite

Reply to Office Action of February 15, 2011

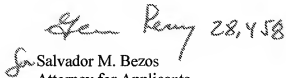
VAINSTEIN *et al.*  
Appl. No. 10/075,194

prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

  
Salvador M. Bezos  
Attorney for Applicants  
Registration No. 60,889

Date: 16 May 2011

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600  
1322836\_1.DOC